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BEAZER EAST, INC.
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December 11, 1995

Ms. Lisa Marino, RPM
U.S. Environmental Protection Agency
Region III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

Subject: Former Koppers Company, Inc. Site
Newport, Delaware
Docket No. III-91-16-DC

Dear Ms. Marino:

On November 28, 1995, Beazer East, Inc. ("Beazer") and E. I. du Pont de Nemours and Company ("DuPont") received your letter of that date, presenting U.S. Environmental Protection Agency (EPA) approval of the Revised Phase II Remedial Investigation (RI) Scope of Work (SOW), dated August 18, 1995, for the Former Koppers Company, Inc., Newport, Delaware Superfund Site ("Site"). This letter also presented EPA's position on items presented in our response letter, dated October 4, 1995, to EPA's comment letter dated September 13, 1995, and reflects most of the discussions and agreements reached at the November 16, 1995 meeting at EPA.

There were, however, two issues that were raised in the November 28 letter that were not previously identified by EPA. Beazer and DuPont strongly object to both new issues. The first issue is the request for the collection of off-Site surface water samples for the analysis of polynuclear aromatic hydrocarbons (PAHs), pesticides/polychlorinated biphenyls (PCBs), polychlorinated dibenzo dioxins/furans (PCDDs/PCDFs), and metals. The collection of surface water samples was not presented in the Revised Phase II RI SOW, nor was it discussed at the November 16, 1995 meeting at EPA. Surface water sample collection was excluded from the Phase II RI SOW because given the low detection of constituents in the surface water, the results of the Phase I data screening (submitted October 4, 1995), the distribution of the Phase I RI surface water data (including off-Site locations), and the tidal nature of the Site setting, there is no data quality objective for the collection of additional surface water samples.

The second issue raised in the November 28 letter that was not discussed at the meeting, and to which we strongly object, is the inclusion of pesticide/PCBs and PCDDs/PCDFs analyses for off-Site sediment samples. The Phase II RI SOW proposed to perform SVOC and metals analyses at each of the off-Site locations, which is consistent with the analytical suit agreed to for sediment sample analysis for the balance of the Phase II RI. The distribution of pesticide/ and PCB detections is scattered across the Site with no apparent pattern, with the highest concentration being in the 100's of ug/kg. Regarding PCDDs/PCDFs, of all the soil and sediment data collected during the Phase I RI, only one sediment sample out of 33 (at 25 locations) and three soil samples out of 47 (at 16 locations) had concentrations that resulted in a calculated toxicity equivalence factor (to 2,3,7,8-tetra chlorinated dibenzo(p) dioxin) of greater than one; these locations are located in the former process area and Fire Pond. It has already been agreed that it is not necessary to collect additional on-Site pesticide, PCB, or PCDD/PCDF data. The collection of off-Site data for these parameters does not serve a purpose.

These issues are the subject of ongoing discussions among Beazer, DuPont, EPA, and WCC and we are hopeful and optimistic that they will be resolved. Nonetheless, paragraph XVII of the Administrative Order on Consent ("AOC") provides that Beazer and DuPont must invoke dispute resolution within fourteen (14) days after receipt of any notification, disapproval, determination, or action. Therefore, without waiving any rights and in order to preserve our legal options, Beazer and DuPont invoke dispute resolution with respect to EPA's inclusion of surface water samples, and pesticide/PCB and PCDD/PCDF analyses as part of the Phase II RI SOW, as your letter of November 28, 1995 requests.

As explained above, we believe that we will be able to resolve our concerns regarding the issues raised by the November 28 letter in a mutually acceptable manner.

Sincerely,


Jane M. Patarcity
Program Manager - Environmental Group

cc: Samantha Phillips-Fairchild, Esq. - EPA
Joel Karmazyn - DuPont
John Auger - DuPont
Norman Griffiths, Esq. - DuPont
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